

ZONING BOARD OF APPEALS

Tuesday, March 17, 2009
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Alicia DiBenedetto Neubauer
Aaron Magdziarz
Scott Sanders
Craig Sockwell
Julio Salgado
Dan Roszkowski

Absent:

Staff: Todd Cagnoni, Deputy Director, Construction & Development Services
Sandra Hawthorne – Administrative Assistant
Jon Hollander – City Engineer, Public Works
Chief Frank Schmitt - Fire Prevention Division
Attorney Kerry Partridge

Others: Reid Montgomery, Director Community & Economic Development
Alderman Doug Mark
Kathy Berg, Stenographer
Applicants and Interested Parties

Acting Chairman Roszkowski called the meeting to order at 6:30 PM.

Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

The Chairman will call the address of the application.

- The Applicant or representative are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns, answer questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.

The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the next meeting was given as Monday, March 30, at 4:30 PM in Conference Room A of this building. The public in attendance, applicants, objectors and

interested parties were instructed that they could contact Sandra Hawthorne in the Zoning Office for any future information and that her phone number was listed on the top of the agenda which was made available to all those in attendance at the beginning of the meeting.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the minutes of the February 18th meeting as submitted. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 6-0

065-08

Applicant
Ward 10

3780 East State Street

Prasad Bhatt

Modification of Special Use Permit (Ordinance 1996-238-0) for a teen club with live entertainment and dancing for 18 years+ to include a banquet facility for special events or private parties, service of snacks and non-alcoholic beverages in a C-2, Limited Commercial District

Laid Over from January & February meetings

This property is located within a strip mall on the north side of East State Street. The Applicant had requested in writing that this item be Laid Over at the January and February meetings. Prior to this meeting, the Applicant again requested in writing that this item be laid over for Two Months to the May meeting.

Staff Recommendation is for Denial.

A **MOTION** was made by Scott Sanders to **DISMISS** the Modification of Special Use Permit (Ordinance 1996-238-0) for a teen club with live entertainment and dancing for 18 years+ to include a banquet facility for special events or private parties, service of snacks and non-alcoholic beverages in a C-2, Limited Commercial District at 3780 East State Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

006-09

Applicant
Ward 14

4873-4875 Manhattan Drive

Joseph Vaughn

Variation to reduce the required six (6) foot side yard setback to zero (0) feet along the east property line along Parcel B and along the west property line along Parcel A in a C-1, Limited Office Zoning District

The subject property is located 740 feet west of the Manhattan Drive and East Lawn Drive intersection and is currently two medical offices. Joseph Vaughn, owner of 4875 Manhattan Drive, and Steve Walters owner of 4873 Manhattan Drive were present. Mr. Vaughn reviewed the request for Variation. Mr. Vaughn and Mr. Walters each purchased half of this building in 1995, set up then as it is now into two separate business areas. In 2005 when Mr. Walters attempted to sell his half of the building, it was discovered this building was an illegal division due to zero setbacks and could not be sold as separate units within one building. This Variation will allow each half of the building to be sold. At this time, the entire building could only be sold as one unit.

Staff Recommendation is for Approval with 2 conditions. No Objectors were present.

Scott Sanders asked Staff if this was an oversight when the building was built. Mr. Cagnoni responded that there was no indication at the time of building permit issuance that this was going to be a divided unit. After the permit was received, the developer divided the building into two units. He explained the other option the owner's have would be to reconfigure the lot to its original design and create a condo association. It is currently two separately owned parcels, with each unit owning half of the original lot. He further explained it would be appropriate to put a condition of cross access to allow both parties the ability to drive through the lot for ingress/egress. Dan Roskowski asked if it would be less cumbersome to go with a condo association to avoid putting in a fire wall. At this time the building is only partially suppressed. Mr. Roszkowski stated a condo association requires a fire separation wall, which is less

extensive than a fire suppression wall. A fire suppression wall is actually two walls, where a fire separation wall would be one wall made of 8" block or concrete.

Mr. Walters stated the concern with a condo association is that if there is a disagreement it could end up in court. Mr. Vaughn asked Staff to provide assistance because they are not familiar with the codes and their options. Mr. Sanders explained if they truly want two independent properties that are saleable, the Variation is the best option.

Mr. Vaughn asked if it would be acceptable to request a condominium association if the Variation is granted. Mr. Cagnoni explained at this time it would be feasible to have the Board proceed with the Variation and if the Applicant wishes to go with a condo association they would not be required to come back before the Board. Mr. Walters stated the building appears to have been divided before the construction was completed. Mr. Cagnoni offered to share the building records with the Applicants to show what was submitted and approved. Since the time of this building, the City and the County have been working together to avoid this situation occurring again; however, this was not in place at the time of construction of this building.

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to reduce the required six (6) foot side yard setback to zero (0) feet along the east property line along Parcel B and along the west property line along Parcel A in a C-1, Limited Office Zoning District at 4873-4875 Manhattan Drive with added condition 3. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all applicable building codes, specifically documentation from a licensed design professional (Architect), licensed in the State of Illinois indicating the current construction does not violate any building code requirements in regard to the property line being through the existing building.
2. Meeting all applicable Fire Codes.
3. Access easement be recorded between the two lots.

ZBA 006-09
Findings of Fact for a Variation
To Reduce the required Front Yard Setback from Six Feet to Zero Feet
Along the East Property Line Along Parcel B
And Along the West Property Line Along Parcel A
In a C-1, Commercial Limited Zoning District at
4873-4875 Manhattan Drive

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.

5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

007-09 1001 2nd Avenue

Applicant Scott Olson

Ward 11 **Special Use Permit** for a Crematory in a C-4, Urban Mixed-Use Zoning District

The subject property is located on the southeast corner of 2nd Avenue and 6th Street. Scott Olson, Applicant, reviewed his request for Special Use Permit. He explained the unit they are purchasing is a recent model. Documentation on emissions tests were provided on this model and included in the Zoning Report. Scott Sanders wished to verify that the documentation provided did pertain to the model Mr. Olson will be purchasing. Mr. Olson stated it was.

Staff Recommendation is for Approval subject to 5 conditions. No Objectors were present

A **MOTION** was made by Craig Sockwell to **APPROVE** the Special Use Permit for a Crematory in a C-4, Urban Mixed-Use Zoning District at 1002 2nd Avenue. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meet all Building and Fire Codes.
2. Submittal of a Building Permit including building elevations for Staff review and approval.
3. Submittal of detailed landscape plan to include the type of species to be planted for Staff's review and approval.
4. All conditions must be met prior to establishment of use.
5. That the property shall conform to State and Federal EPA Regulations.

ZBA 007-09
Findings of Fact for a Special Use Permit
For a Crematory in a C-4, Urban Mixed-Use Zoning District at
1001 2nd Avenue

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.

5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-4 Zoning District in which it is located.

008-09 **508 East State Street**
Applicant The Element c/o Riverfront Development
Ward 3 **Special Use Permit** for a Mural in a C-4, Urban Mixed-Use Zoning District

The subject property is located on the north side of East State Street, 67 feet east of 2nd Street and is currently a Day Spa. Neither Applicant nor Representative were present. Mr. Cagnoni stated prior to the meeting the Applicant had stated this mural would probably not move forward until June. Mr. Cagnoni explained to the Applicant at that time that the entire process on this application would not be complete until the first part of June, which would fall in their time frame and was expecting the Applicant would be in attendance at this meeting.

Staff Recommendation is for Approval with 3 conditions.

A **MOTION** was made by Scott Sanders to **LAY OVER** the Special Use Permit for a Mural in a C-4, Urban Mixed-Use Zoning District at 508 East State Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

009-09 **588 Simpson Road**
Applicant Stephen Ross
Ward 5 **Zoning Map Amendment** from C-3, General Commercial District to I-1, Light Industrial/Business Park District

The subject property consists of 3.36 acres located on the southern corner of the intersection of Simpson and Dawes Roads and is currently vacant land. Stephan Ross, Applicant, reviewed the request for Zoning Map Amendment. He explained four years ago this property was zoned as I-1 and changed to C-3. Development had not occurred, and he now wishes to rezone back to I-1 with plans to build two temperature controlled storage facilities, which would be allowed in the I-1 District. Mr. Ross further explained that although this property is located in a TIF area, they will not be taking advantage of TIF funds. Three elevation options were presented to Staff, which were included in the Zoning report. Option 1 consists of brick split face block and was preferred by Staff because of the proximity to Bypass 20 and surrounding uses. The Applicant stated he is agreeable to this design. Original plans included an apartment for an on-site caretaker, but has since been dropped by the Applicant since Staff had indicated they would not support this. Mr. Ross did explain that an on-site caretaker would deter theft and would lower their insurance rates. Mr. Cagnoni stated Staff would be willing to look at this option, but it would need to come back before the Zoning Board because it is not allowed in the I-1 Zoning District. He further explained the current application will allow this development to move forward and the addition of an apartment for a caretaker can be addressed in the future.

Staff Recommendation is for Approval subject to 4 conditions. Objectors were present.

Mary and William Marek, 718 Simpson Road stated their objections. Mrs. Marek stated she has been trying to sell the corner 30 acres of this interchange for "several ideas" and need all of the parcels to develop as one. She stated she has been working on this for a couple of years. If the Applicant's request is approved, she stated it makes it difficult for her to sell the land as a 30 acre plot. She is also concerned with water retention. She stated Fed Ex is across from this property and they pump their water onto the Applicant's property. She is concerned this development will divert water to other properties. In

response, Mr. Ross explained that whoever develops this land or any of the parcels will have to provide for water detention and retention.

William Marek stated he has the same concerns as his wife in regards to water. He explained he and Mrs. Marek actually only own a little under 7 acres, not 30 acres, and they have been looking at getting various property owners in that area to combine their land together for sale. He suggested their plan would be for the greater good of the city. He also had questions for Mr. Ross on the design of the buildings planned.

Mr. Ross explained these will be 2 story buildings, 34,000 square feet for the first building, 70,000 square feet approximate total with the two buildings. He further stated this is a minimal traffic use, with the average stay of a tenant approximately 4 minutes. Mr. Ross stated he has been sitting on this land for two years waiting for a combined land development such as proposed by Mrs. Marek to take place, but nothing has happened and he wishes to make use of his property.

Robert Aspaas, 526 Simpson Road was present as an Objector. He also has similar objections as the Marek's presented. He stated when he purchased this land 40 years ago this area was a country setting. Fed Ex moved in and purchased 6 of the houses and removed the trees and developed a parking lot. He is concerned with resale value when he is ready to retire. Mr. Ross explained the proposed buildings will be part stucco and part brick, rather than a big metal industrial looking building, and will be landscaped.

During Board discussion, Mr. Cagnoni explained that because this is a Zoning Map Amendment site plans are not required. Staff was given an understanding of what was proposed on this site. He further explained the City has been working with the applicant for over 2 years to see if other development would be proposed and felt this has not been happening. Full landscaping buffers would be required between residential areas and the subject property.

Mr. Sanders wished to verify with Staff that all of the land spoken about by Mrs. Marek is not owned by the Marek's but are different plots owned by several people. Mr. Cagnoni agreed. He further clarified no deviation from the Ordinance would be allowed by the Applicant without him coming back before the Board.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Zoning Map Amendment from C-3, General Commercial District to I-1, Light Industrial/Business Park District at 588 Simpson Road. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all applicable Building and Fire codes.
2. Submittal of a tentative and final plat prior to development of the site.
3. Submittal of a landscaping and illumination plan prior to issuance of a building permit.
4. No outside storage of boats, unlicensed vehicles, mobile homes and trailers.

ZBA 009-09
Findings of Fact for a Zoning Map Amendment
from C-3, General Commercial District
To I-1, Light Industrial / Business Park District at
588 Simpson Road

Approval of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:

- a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial property because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood.
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as CH-IL Heavy Commercial-Light Industry.

010-09 This Application has been Withdrawn

011-09 4404 East State Street

Applicant Doyle Signs, Inc.

Ward 10 **Variation** to increase the maximum allowable height from (8) eight feet to 18'6" for a freestanding sign in a C-3, General Commercial District

Prior to the meeting a written request was received from the Applicant to lay over this item to the April 21st meeting of the Zoning Board of Appeals.

A **MOTION** was made by Julio Salgado to **LAY OVER** the Variation to increase the maximum allowable height from (8) feet to 18'6" for a freestanding sign in a C-3, General Commercial District at 4404 East State Street. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 6-0.

003-09 1200 Auburn Street & 1439 North Main Street

Applicant Joe Galindo

Ward 3 **Special Use Permit** for an auto transmission shop in a C-2, Limited Commercial Zoning District

Referred back to ZBA from City Council

This item was Heard by the Zoning Board on February 18th. At that meeting, the Board voted for Approval of the request subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Detailed site plan showing striped parking that must be approved by Staff.
3. That there is no outdoor storage/display of vehicle parts at any time.
4. There shall be no overnight storage of vehicles on the property.
5. Disposal and storage of hazardous materials must follow the Illinois Environment protection Agency guidelines.

The Applicant has since requested overnight storage of vehicles awaiting repair. City Council has referred this item back to the Zoning Board for reconsideration.

Joe Galindo, Applicant reviewed his request. He explained he did not understand the condition of approval regarding outside storage. Mr. Galindo stated any vehicles outside would not be junk cars, but those awaiting repair while he is working on them. He is requesting 3 to 6 vehicles be allowed outside. Mr. Galindo stated transmissions always take 3 or 4 days to complete because of the amount of work involved. The size of the building will not allow for storage of vehicles.

Mr. Sanders asked Staff to confirm the parking lot behind the building was a municipal lot. Mr. Cagnoni verified this was a municipal lot and that his customers could park there when visiting the shop, but it could not be used for overnight storage. Mr. Sanders felt given the visibility of this corner, he is not agreeable to an open-ended storage allowance. Ms. Neubauer asked if additional landscaping or fencing would be feasible to allow the Applicant to do outside storage. Mr. Cagnoni stated in discussions Staff had with the Applicant it was stated that no outside storage would be part of the business. He feels the Applicant did not fully understand that vehicles would be considered storage. If the Board does approve, Staff suggested no more than 3 vehicles be stored outside at one time, that all vehicles must be licensed, and a time frame be stipulated on how long any one vehicle could be stored outside. Because this is a short term use of perhaps 3-5 years, Staff does not feel landscaping or fencing is feasible at this time. Scott Sanders felt putting a 10' wide landscaping buffer along the 53 feet of North Main Street would be feasible. Mr. Cagnoni again stated Staff was not certain this would be warranted under the circumstances of only a 3-5 year timeframe.

Alderman Doug Mark was present. He stated he was not really an Objector but that he would like to see some stringent wording on the number of vehicles that can be allowed.

Julio Salgado felt it was not fair to limit the Applicant to only three vehicles because he has seen other shops on corner lots that have more. Alicia Neubauer felt the Applicant should be allowed 5 outside vehicles. Mr. Sanders suggested parking be allowed according to the plan submitted. Mr. Cagnoni questioned if 5 vehicles were allowed for storage, the lot gives little consideration of customer parking or vehicles coming in and out. He feels the Neighborhood Association is trying to be receptive with limited storage, which should be taken into consideration.

A **MOTION** was made by Scott Saunders to **APPROVE** the Special Use Permit for an auto transmission shop in a C-2, Limited Commercial Zoning District at 1200 Auburn Street and 1439 North Main Street with amended and added conditions. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-1, with Alicia Neubauer voting Nay.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Detailed site plan shall be submitted showing striped parking that must be approved by Staff.
3. That there is no outdoor storage of vehicle parts at any time
4. Disposal and storage of hazardous materials must follow the Illinois Environmental Protection Agency guidelines
5. The overnight outside storage of vehicles shall be limited to three (3) vehicles for not more than three (3) consecutive nights per vehicle.
6. All vehicles stored outside shall have current license plates.
7. There shall be a ten foot wide perimeter landscape buffer along the west property line of the lot

With no further business to come before the Board, the meeting was adjourned at 7:50 PM

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals